

**TOWN OF ROCKY HILL
ZONING BOARD OF APPEALS
MEETING OF JULY 21, 2015**

CALL TO ORDER

Chairman Reilly called the Tuesday, July 21, 2015 meeting to order at 7:00 p.m. in the Town Council Room of the Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: James Reilly, Chairman
Phil Benoit, Secretary
Greg Faulkner
Chris Incarvito

Absent: William Tangney

Also: Kimberley A. Ricci, Town Planner, Zoning Enforcement Officer, Special Constable
Jo-Anne Booth, Recording Secretary

Chairman Reilly went over the procedures for the public hearings and noted that any decision of the Board can be appealed within 15 days of the decision. Secretary Benoit read the legal notice.

1. PUBLIC HEARING

A. Continued from May 19, 2015: Appeal 2015-2, SecureCare Options LLC c/o Jonathon M. Starble, Esq., appealing an order, requirement, or decision of a Zoning Enforcement Officer Under Section 8.7.3 of the Rocky Hill Zoning Regulations for Order dated May 29, 2013, for property located at 60 West Street in a R-20 Residential Zoning District, which Order is claimed, among other things, to have been void ab initio;

B. Continued from May 19, 2015: Appeal 2015-03, SecureCare Realty LLC c/o Jonathon M. Starble, Esq., appealing an order, requirement, or decision of a Zoning Enforcement Officer Under Section 8.7.3 of the Rocky Hill Zoning Regulations for Order dated May 29, 2013, for property located at 60 West Street in a R-20 Residential Zoning District, which Order is claimed, among other things, to have been void ab initio;

There was a discussion about whether or not to continue discussion of these Appeals because a regular member was absent and the alternate was not present at the last meeting. Mrs. Ricci said at the last meeting the public hearings were continued in order for the Board to receive an independent legal opinion, which was received and given to Atty. Starble moments ago. The Town Attorney is not present, but he is available on speaker phone if necessary.

Attorney Jonathan Starble addressed the Commission representing the Applicant. He said he reviewed the tape of the last meeting and the public hearing was closed and the Commission began deliberations. He therefore isn't sure that he should be allowed to comment on the opinion letter. He did say he disagrees with the opinion letter and doesn't feel it is responsive to all the points he brought up.

Commissioner Incarvito said they still need to decide if they should go forward tonight because with only 4 voting members, all would have to vote in favor of the Appeals for them to be granted. Mrs. Ricci said according to the Motions made at the last meeting, these Public Hearings were continued, not closed. There was also a discussion about the need for an extension to be granted by the Applicant.

A MOTION was made by Commissioner Incarvito to take a ten minute recess at 7:20 p.m. The motion was seconded by Commissioner Benoit. All were in favor, MOTION CARRIED UNANIMOUSLY.

A MOTION was made by Commissioner Incarvito to come out of recess at 7:30 p.m. The motion was seconded by Commissioner Faulkner. All were in favor, MOTION CARRIED UNANIMOUSLY.

Mrs. Ricci said although she is not an Attorney, under CGS Section 8-7d regarding time frames for appeals to Boards, decisions on such matters shall be rendered not later than 65 days after completion of the hearing. The Applicant may agree to grant an extension for a period no longer than another 65 days. The Commission continued discussing whether or not the public hearing was closed. According to the published Actions and Minutes for the previous meeting, the vote by the Commission was to continue the public hearings.

Commissioner Benoit read the entire Branse and Willis independent legal opinion into the record. Their final opinion is that based upon existing law the Rocky Hill Zoning Board of Appeals does not have jurisdiction over the appeals which were filed late and recommends that the Board vote to dismiss the Appeals for failing to have jurisdiction.

The Commission agreed that at the May meeting the public hearing was closed and the Commission moved into the business portion of their meeting. Any motions made after that were motions to table the discussion, not the public hearing.

2. NEW BUSINESS

A. Appeal 2015-2, SecureCare Options LLC, 60 West Street, Rocky Hill, CT

B. Appeal 2015-3, SecureCare Realty LLC, 60 West Street, Rocky Hill, CT

A MOTION was made by Commissioner Faulkner to dismiss Appeal 2015-2 (SecureCare Options, LLC, 60 West Street, Rocky Hill, CT) and Appeal 2015-3 (SecureCare Realty

LLC, 60 West Street, Rocky Hill, CT) on the basis that the Zoning Board of Appeals doesn't have jurisdiction to hear these appeals. This is based on Counsel's opinion and Connecticut General Statutes, Sec. 8-7 (Appeals to Board), which requires that the appeal be rendered within thirty days of a Cease and Desist Order or if the Order is void ab initio. The motion was seconded by Commissioner Benoit. Four were in favor (Reilly, Benoit, Faulkner and Incarvito). MOTION CARRIED UNANIMOUSLY (by those voting).

3. OLD BUSINESS

No discussion.

4. ANY OTHER BUSINESS

A. Review of Zoning Regulations Section 3.4.8 temporary structures

B. Membrane structures

C. Storage containers

Mrs. Ricci reported that approximately 26 temporary structures were identified by staff. Seven of them can be enforced at this time, without any further research. Some properties have two different types of temporary structures. Any structures of this type that have been on the property for a period longer than 3 years are considered to be legal non-conforming uses. Of those 26 structures, 6 have been grandfathered in because they have been on the property longer than 3 years. The remainder requires further investigation. Staff will begin enforcement actions and investigations immediately.

D. Electronic Signs

Draft Regulations were prepared for the Town of Rocky Hill by Liz O'Donnell, a UConn Law School student. Some issues to address in Electric Sign Regulations include:

- The frequency of the message change.
- The brightness of the sign.
- The location of the sign.

The Planning and Zoning Commission plans to begin updating their Zoning Regulations in September. She is hoping the Zoning Board gets involved in this process.

5. APPROVE ACTION TAKEN/MINUTES – June 16, 2015

A MOTION was made by Commissioner Benoit to approve the Minutes of the June 16, 2015 meeting of the Zoning Board of Appeals. The motion was seconded by Commissioner Faulkner. All were in favor, MOTION CARRIED UNANIMOUSLY.

6. ADJOURN

A MOTION was made by Commissioner Faulkner to adjourn the meeting at 8:15 p.m. The motion was seconded by Commissioner Benoit. All were in favor, MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Eileen A. Knapp
Recording Secretary